



Fire Suppression Interim Committee 60th Montana Legislature

SENATE MEMBERS

JOHN COBB
KEN HANSEN
RICK LAIBLE
DAVE LEWIS
GERALD PEASE
CAROL WILLIAMS

HOUSE MEMBERS

STEVE BOLSTAD
JIM KEANE
KRAYTON KERNS
RICK RIPLEY
CHAS VINCENT
BILL WILSON

COMMITTEE STAFF

LEANNE HEISEL, Lead Staff
TODD EVERTS, Staff Attorney
BARBARA SMITH, Fiscal Analyst

MINUTES

April 28 & 29, 2008

Bitterroot River Inn
Hamilton, Montana

Please note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities.

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COMMITTEE MEMBERS PRESENT

SEN. JOHN COBB
SEN. KEN HANSEN
SEN. RICK LAIBLE
SEN. DAVE LEWIS
SEN. GERALD PEASE
SEN. CAROL WILLIAMS

REP. STEVE BOLSTAD
REP. JIM KEANE
REP. KRAYTON KERNS
REP. RICK RIPLEY
REP. BILL WILSON

STAFF PRESENT

LEANNE HEISEL, Lead Staff
TODD EVERTS, Staff Attorney
DAWN FIELD, Committee Secretary

AGENDA & VISITORS' LIST

Agenda, Attachment #1.
Visitors' list, Attachment #2.

COMMITTEE ACTION

The Fire Suppression Interim Committee approved the minutes of the November 26, 2007 full FSC meeting, the January 11, 2008, Infrastructure and Wildland Urban Interface (WUI) Subcommittees, and the February 15, 2008, WUI and Infrastructure Subcommittees, as written, on a unanimous voice vote.

CALL TO ORDER AND ROLL CALL

00:00:19 SEN. LAIBLE called to order at 10:00 a.m. The Secretary took roll, all members were in attendance (ATTACHMENT #3). SEN. LAIBLE welcomed all meeting attendees and presenters.

00:03:34 REP. RIPLEY **moved** to approve the minutes from the November 26, 2007 full FSC meeting, the January 11, 2008, Infrastructure and Wildland Urban Interface (WUI) Subcommittees, and the February 15, 2008, WUI and Infrastructure Subcommittees. The **motion passed** on a unanimous voice vote.

FSC QUESTIONS AND ANSWERS WITH USFS, BLM, & DNRC

Panelists from the United States Forest Service (USFS), the Bureau of Land Management (BLM), and the Department of Natural Resources and Conservation (DNRC) appeared before the Fire Suppression Committee (FSC) to discuss responses to a series of questions from FSC members, which were provided to the panelists in advance of the meeting (EXHIBIT #1). Panelists included: Tom Tidwell and Dave Bull - USFS, Rick Hotaling and Phil Gill - BLM, and Bob Harrington - DNRC.

00:04:13 SEN. LEWIS requested follow up information to George Weldon's statement (published in the Montana County Firewarden's 2008 position paper) that the USFS does too much initial attack and fights more fires than they can afford to fight, and that the USFS may not be able to continue its current practices. SEN. LEWIS said that if there is going to be a USFS major policy change, state and local agencies need know about it, in order to offset the impact. **Dave Bull, Forest Supervisor, Bitterroot National Forest (BNF)**, said that he is not aware of any major policy changes but that policy is being reviewed to see if updates to the 1995 fire policy are needed. He said factors such as climate change, the abundance of fuels, and the absence of natural fire in the last 100 years must be considered. Mr. Bull said that the USFS is considering different types of fire management for resource benefit and he also discussed funding and budget issues facing the USFS.

00:14:20 SEN. LEWIS said that there has been a great deal of discussion among state and local agencies, as well as the public, regarding fires that begin on USFS lands and pose a threat to state and private lands. He said the concern is that the USFS may not be providing as aggressive attack as may be necessary to stop the fire from spreading to state and private lands. He said that there has been discussion of allowing state agencies to step in to provide initial attack if it is felt that federal efforts are not aggressive enough and asked if there has been discussion within the USFS of weighing the concerns of state and private lands against the USFS for allocation of resources and initial attack priorities. Mr. Bull said yes, that a decision

tree model is used to allocate wildland fire resources, which includes consideration of if the fire could move of national forest onto state and private lands. He said that immediate suppression efforts are taken on fires that threaten private land and said that the cooperative agreements in place allow for assistance from the state.

00:18:54 REP. RIPLEY said that in 2006, the majority of the larger fires began in regrowth areas and not in older forests. Mr. Bull said that typically, the effect of a past forest fire is lost in 10-15 years and agreed that areas of regrowth are another consideration. Mr. Bull said that inaccessible areas may be areas most suitable for fire use fires and that mechanical treatment may be necessary for areas closer to residential areas.

00:23:20 REP. KEANE said he has heard Mr. Bull use the term "mechanical treatment" and said that some feel that the USFS does not use as much mechanical treatment on forests as it should. He noted that he and SEN. LEWIS had recently observed an area being mechanically treated and said that they were favorably impressed with what they saw. He asked if the USFS is willing to look at newer methods of mechanical management. Mr. Bull said USFS has reduced acres for mechanical treatment dramatically over the last several years, mostly due to a reduced budget and public pressure and related lawsuits. He said that up to 80% of the USFS's timber budget is spent on analysis in order to defend a decision against critics, rather than "on the ground" projects because of the opposition to mechanical projects on public land. He agreed that fuels reduction is a good thing, but said it is difficult to convince some of that. He pointed out that the environmental rules pertaining to mechanical treatment were written over 30 years ago, when the situation was much different. Mr. Bull added that in certain emergency situations, a limited amount of mechanical treatment is allowed.

00:33:21 REP. BOLSTAD said that the practice of conducting an environmental study has become a situation of "the tail wagging the dog" and that the cost of fires has limited the USFS in studying new methods of fuel reduction. Mr. Bull said that from a budget standpoint that fire expenses have gotten bigger every year and do limit what is spent in other areas. He said that the USFS is conducting several specific treatment projects, such as the Trapper Bunkhouse project, but that the areas in need of treatment are enormous.

00:38:03 REP. VINCENT (refer to EXHIBIT #1 - page 2) said that endless litigation has been forced upon the USFS over the last two decades. He referenced a letter written by the Wild West Institute and asked the USFS to discuss how collaborative efforts between private and public entities for fuel reduction projects have been stalled. He said that no injunctions have been filed but that sales are not moving forward. **Tom Tidwell, Regional Forester, USFS Northern Region**, said all decisions are subject to appeal, so the USFS waits for the appeals process to run through before beginning a project because the USFS has to reimburse the contractor for costs incurred if a project is shut down. Law suits do factor into decisions and that decisions are made on a case-by-case basis.

00:42:19 REP. VINCENT said that a "bundle" of sales in the Kootenai area has been held up and that his local community is fearful that a fire will occur before the project goes

through. He said a fire in this area would be indefensible because of the amount of fuel and that a request was made to separate out two projects in the Troy in an attempt to decrease the fire danger around the town, but the request was denied. Mr. Tidwell said the USFS does sit down with litigants to see if the USFS could allow a portion of project to move forward. Sometimes efforts are successful but not always. He said the USFS uses every option it can to move a project forward.

00:45:44 Regarding his second question, REP. VINCENT asked to discuss travel management planning and what effect it will have on the forest (See EXHIBIT #1 - page 2). Mr. Tidwell said all forests are going through a level of travel management, which includes designation of established trails. He said that the USFS can no longer maintain the current system of roads in the national forest and that the goal is to establish a sustainable system of routes, which includes needed access for fire suppression. He said that with new technologies and better equipment, some roads are no longer needed, and pointed out that while a road may be closed to the public, it didn't mean that it would be taken out. He said it is essential to the process to have public comment on the process.

00:55:29 Regarding his third question, REP. VINCENT asked how critical habitat management will impact forest use. He said that 42,000 acres have been proposed for the protection of the Canadian Lynx and asked how that will dovetail with timber management. Mr. Tidwell said it would have to be a "wait and see" situation but that he expects to be able to continue with projects.

00:59:33 REP. VINCENT said that his fourth question regarding the USFS budget had been answered in earlier discussion.

00:59:57 SEN. LAIBLE said that a packet of information had been mailed prior to the meeting on appropriate management response (AMR). He asked the panelists to comment on how AMR is working for their respective agencies. **Bob Harrington, Forestry Division Administrator, DNRC**, said that there has been problems with communications and suggested that line officers and agency administrators get together to discuss and resolve some of the problems. He said that the recent conference at Fairmont Hot Springs identified some tangible changes that should be made.

01:03:52 **Rick Hotaling, Field Office Manager, BLM**, agreed that there was quite a bit of confusion, mainly due to a lack of communication. He said the BLM is willing to work to improve communications and to refine AMR. He said it is important to identify all of the partners, including the public, and to not leave anyone out.

01:06:11 **Phil Gill, Fire Management Officer, BLM**, agreed that there are problems but said that from his perspective, the initial fire attack efforts in eastern Montana went much more smoothly in 2007, thanks to AMR and the fact that resources were allocated more efficiently and ready in advance of fires.

01:08:55 Mr. Tidwell agreed that better communication is needed. He said that much has been learned and that working on AMR will be an ongoing and long-term learning process.

- 01:11:56 SEN. LAIBLE said that one of his concerns with the AMR document is its length. He suggested that it be made shorter and more succinct. He said that after reading it, he still is not completely clear on what policy is. SEN. LAIBLE said that structure protection, the role and responsibilities of incident management teams, and how local communities and the public will be involved are several issues that need to be clarified. Mr. Harrington agreed and said that AMR was a major topic of discussion at the Fairmont meeting.
- 01:16:38 Mr. Tidwell said that there is a need to create a fire management plan earlier in the event and that it must be a flexible and dynamic document in order to change with the fire conditions. He said that anticipates that the AMR concept would eventually become part of the process. He said that he expects to have a simpler approach for the next year and that more people will be involved.
- 01:19:00 SEN. COBB asked for written responses to be provided to the FSC in the next few weeks regarding the Fairmont meeting, in order for the Committee to get a better understanding of specific actions are being taken to improve the process of long-duration fire management. Mr. Harrington said he would provide conclusions from the Fairmont meeting to the FSC. He added that it became obvious at the meeting that even more public education is necessary.
- 01:23:10 REP. KEANE asked Mr. Harrington to discuss his perception of structure protection, as it was discussed at the Fairmont meeting. Mr. Harrington said it his opinion is that the issue, as addressed in the AMR document, is subject to interpretation. He said he is not completely clear on structure protection expectations and said the DNRC will prepare its own interpretation for the 2008 fire season.
- REP. KEANE asked the BLM and USFS to comment on the same. Mr. Hotaling said he also has interpretation concerns. He said that in eastern Montana, for instance, a house may insured but grass is not, so that type of situation may cause confusion over what should be prioritized for protection. Mr. Hotaling said that the BLM doesn't plan to issue specific guidance on structure protection but would review DNRC's interpretation. Mr. Tidwell said the structure protection language covers a large geographical area, so a certain level of flexibility is needed. It is an attempt to clarification of structure protection and it must be remembered that the USFS is not primarily a structure protection agency, but that its job is to keep fires from reaching structures. However, Mr. Tidwell said, the USFS does recognize that it has some responsibility for structure protection under certain circumstances.
- 01:29:49 SEN. HANSEN asked if the USFS communicates with state agencies to the point where it knows what resources are available. Mr. Tidwell said yes, communications take place on a daily basis, especially in fire season. SEN. HANSEN asked if communications are ongoing with private contractors. Mr. Harrington said yes, and explained that each dispatch center has a computerized system of resources that is updated daily and readily available to contractors. Mr. Bull said at the local level, contractors can contact a dispatch office for updates and information.
- 01:32:23 REP. RIPLEY said that he would like to be assured, along with allowing for flexibility, that as much consistency as possible will be applied to structure protection also. He said that USFS has been consistent in protecting its property but

not on private property and asked if the USFS plans to decrease structure protection on its own structures. Mr. Tidwell said that it is a matter of authority, as well as responsibility. The USFS has the authority take what ever measures are necessary to protect a USFS building, but does not have the authority or training to, for instance, wrap a private structure to protect it. He said that county and state agencies do have the training and expertise to do those types of protection measures, so those types of protections are best left to them. He said it would be wise to discuss these types of issues amongst the agencies in advance of fire season and provides an example of why a certain degree of flexibility is needed in the document. He said the key to successful structure protection is to discuss it in advance and have a plan on how the agencies will work together. By working together, everyone can do a better job of pooling resources and providing protection where it is needed.

- 01:36:53 SEN. COBB asked if meetings have been held to facilitate changes. Mr. Tidwell said regional meetings are going on and that he would send out information.
- 01:38:23 SEN. COBB asked when a definition of "structure protection" is going to be finalized. He said the FSC also needs to know cost estimates for structure protection and if additional funding will be needed. Mr. Harrington said the final AMR draft will be available in a few weeks and that the DNRC interpretation would be available shortly after that. He said he would prepare a cost estimate on what it would take to support state and local agencies to provide structure protection.
- 01:41:26 REP. KEANE noted that Mr. Tidwell said that "structure protection is necessary and needs to be done", and he said that he would like that to be clearly conveyed to the USFS. Mr. Tidwell said that the structure protection paper will be sent out and that he would meet with local agencies to discuss it.
- 01:42:34 REP. BOLSTAD said that the USFS and the DNRC manages resources held in trust for the public and asked if their agencies will flat out say that they are not in structure protection or protection of private property, but only resources which belong to the United States. He asked what is the position of the USFS and DNRC on the likelihood that a liability lawsuit being filed, if that is the case. Mr. Tidwell said it is essential to have in writing how the USFS is going to handle structure protection. He said the USFS will continue to fight wildand fires and will do what it can to keep fire from a structure. As far as actual structure protection, the USFS is not trained to do that and does not have have the necessary training or equipment, so it will be rare. He said that all agencies have different resources and training and by working together, a better job can be done.
- 01:45:34 Mr. Harrington said that a cut and dried type of document won't work, even though it sounds good. He said that the DNRC can accept responsibility for structure protection if it is the will of the executive branch and legislative branch.
- 01:48:30 SEN. LAIBLE asked (EXHIBIT #1, page 1) about what to do with the fuel from fuel reduction projects once it is removed from the forest. He referenced the recent closure of the Bonner Mill and said that there are few options for dealing with this material. He asked the panelists to tell the FSC what they would do differently than what is being done now and how the Committee could assist them in that endeavor.

- 01:50:18 Mr. Hotaling said it is a market demand and capacity issue. He said several sales have had to halt simply because there was no place to take the product.
- 01:53:28 Mr. Tidwell said that, 1) it is essential that existing infrastructure in Montana is maintained because fuel reduction projects do cost; and 2) the USFS has been working on collaborative projects that the public will support and offers grants to businesses that are interested in using this material to build additional infrastructure.
- 01:55:21 Mr. Harrington said that he met with Wyoming officials earlier in the month to see how they are handling this issue. He said that the mill situation in Montana is quickly becoming critical and that it could be catastrophic very soon if mills keep closing. He said there are several solutions that would help the industry survive, such as low-interest loans or a cost-averaged supply. Another idea with merit is to consider settling the many class action lawsuits that are tying up millions of board feet of timber. He said that settlements would have a tremendous impact and create a sufficient volume to keep this infrastructure going. Mr. Harrington also suggested that the Oregon biomass tax credit be closely looked at.
- 01:59:58 SEN. LEWIS said that Powell and Lewis and Clark County adopted community decay ordinances. He asked, if the definition of community decay was statutorily broadened, if it would allow counties to participate in court cases and possibly file as a "friend of the court", in order to facilitate resolution of lawsuits. Mr. Tidwell said this approach has been used in several areas and would be welcome. Mr. Harrington said that SB 293 by SEN. LAIBLE was to establish forest policy for the state and to enable the DNRC to intervene on federal lawsuits, but that funding was not attached. He said that it could also apply to local governments.
- 02:04:11 REP. VINCENT said the bill could be amended in the 2009 session to include funding.
- 02:05:14 SEN. WILLIAMS noted that Stimson Lumber and Pyramid Lumber are both in her district. She said that the working forests and lands bill to manage state trust lands for timbering, introduced in the 2007 legislature, will be brought back. She said it is important to keep these lands healthy and would also serve the purpose of supporting the mills.
- 02:06:48 SEN. COBB asked the USFS to be sure to provide a response to the FSC about the state's concerns regarding the AMR, what things will be implemented, and what changes will be made. He said this is a big issue for the state. Mr. Tidwell said that he would provide the information.
- 02:08:19 In response to a question from SEN. HANSEN about the federal response regarding WUI areas, Mr. Tidwell said that the USFS instituted a forest wise program and is happy to visit with communities on how to make them more defensible and survivable. SEN. HANSEN asked if the information is available on the USFS website. Mr. Tidwell said yes.

LUNCH BREAK

BITTERROOT NATIONAL FOREST PERSPECTIVE

- 00:00:01 **Dave Bull, Forest Supervisor, BNF** discussed:
- how the 2007 fire season shifted his perspective and homeowner's regarding WUI and fighting wildland fire;
 - an example of a subdivision that didn't take the initiative to reduce fuels;
 - a report that the BNF is the most threatened forest in the nation due to WUI;
 - a federal ruling to dismiss a lawsuit brought by homeowners and the determination of USFS protection from liability;
 - how the USFS works with timber companies and others to meet objectives and maintain forest health forest, including the Gash Creek project; and
 - the long-term management plan for Rombo Mountain.
- 00:20:49 Mr. Bull updated the FSC on the BNF, saying that the BNF has 1.6 million acres and that about 400,000 have burned. He said that one-half to one-third is in wilderness and the rest is considered roadless, or roaded wilderness. He said that natural fire is a management tool and has been very effective in roadless areas. Roaded lands (about 25%) have been successfully protected through initial attack efforts. He reported that approximately 6,000 - 8,000 acres are mechanically treated for fuel reduction each year, but that ten times that amount should be occurring. Much of the land has been identified as suitable for harvest, but efforts are about 40 year behind.
- 00:27:01 In response to a question from REP. VINCENT regarding the amount of board feet available, Mr. Bull explained how a basal area is determined and how much timber can be cleared in a particular area, based on the basal area. He noted that there is a tremendous bark beetle problem in the BNF and that hundreds of millions of board feet have already been killed.
- 00:28:51 SEN. COBB, referring to litigation issues, asked how or if the USFS communicates to is people what its responsibilities are for structure protection. He said it is a just a matter of time before a subdivision is lost and asked if any solutions have been pursued, such as zoning. Mr. Bull agreed that it probably is a matter of time before such an event, but that many people who move into WUI areas are uneducated or unaware of what is means to live in a fire dependent eco-system. He said zoning would be one solution and said that insurance may be another, because insurance companies have a vested interest in whether property burns or not. He said there has be a will on the part of a community, to take some responsibility for protection of that community but that isn't always the case.

BIOMASS UTILIZATION

- 00:36:33 **Dr. Kristina Vogt, Professor of Ecosystem Management, College of Forest Resources, University of Washington**, presented a detailed PowerPoint presentation on biomass utilization, specifically methanol production; and discussed energy security, related economic development opportunities, climate change mitigation, impact on the environment and human health, and the reduced fire risk (EXHIBIT #2).
- 01:13:41 REP. KERNS asked if there is a great difference in the amount of water consumption in the process of producing ethanol versus methanol. Dr. Vogt said

there is a huge difference. REP. KERNS said that there currently are no subsidies for methanol. Dr. Vogt said no, because little is known about it. She said subsidies probably would not be needed because the market is there

- 01:16:03 REP. VINCENT asked if there are problems with methanol in colder temperatures. Dr. Vogt said yes, but not as bad as with ethanol and that less fuel conditioner is necessary.
- 01:17:21 SEN. WILLIAMS said that there is a danger of creating a new problem when attempting to fix another and that she feared that this type of project may require cutting down large amounts of timber. Dr. Vogt said that this type of project requires only small amounts of timber and that forest health is easily maintained. SEN. WILLIAMS said it appeared to her that large amounts of timber were harvested for the biomass project. Dr. Vogt said that the methanol production is very efficient and leaves only a small footprint because it can be moved around so easily.
- 01:26:12 REP. BOLSTAD asked if other carbon-based materials could be burned. Dr. Vogt said that plastic could not be burned.
- 01:28:06 SEN. COBB asked if a complete integrated mobile system has been built yet. Dr. Vogt said not at this time. SEN. COBB asked what the cost to build a mobile system would be. Dr. Vogt said the cost would be approximately \$650,000. SEN. COBB asked about production. Dr. Vogt said that for each dry ton of product burned, about 160 gallons of methanol would be produced. She said that a 5,000 gallon truck could be filled in one day. SEN. COBB asked why it hasn't been done yet. Dr. Vogt explained that it would take an investment of over \$2 million to build the plant that could manufacture the system, which would sell for about \$650,000.
- 01:31:12 SEN. LAIBLE said that there are hundreds of thousands of acres of burned timber still on the ground and asked if it could be burned. Dr. Vogt said yes. SEN. LAIBLE asked, if this was done, and the forests were replanted, what the carbon impact would be. Dr. Vogt said there would be a dramatic carbon reduction. SEN. LAIBLE asked if it would offset the amount of carbon emissions from the fire. Dr. Vogt said yes.
- 01:36:21 **Sonny LaSalle, Big Sky Coalition (BSC)**, said that Tom Roback recently visited a Washington plasma plant and asked him to discuss his findings. **Tom Roback, BSC**, said that his quest was to find a cost effective way for loggers or the USFS to put out bidding projects, and that his search led him to biofuels. He said the simple explanation is that the plant burns materials at a very high temperature and that the material is converted into gas and then to liquid. He said the plasma technology uses only small diameter trees and chipped materials. He reported that the Washington plant produced 186 gallons of biofuel from one ton of garbage/slash. He said it could be a very effective process, but that it won't happen unless forest policy changes are made and the lawsuits go away.
- 01:42:52 SEN. COBB said that to allow both sides of the issue to be presented, the group that opposes the work of the BSC would be allowed to address the issue later in the meeting.

MITIGATION IN THE WUI

- 01:43:43 **Steve Woodruff, Deputy Director, Western Progress - Northern Region**, said he is based in Missoula and that Western Progress is a public policy group dedicated to help shape and advocate solutions to difficult problems. Mr. Woodruff discussed the perspective of Western Progress and provided written copies of his testimony (EXHIBIT #3).
- 02:04:59 SEN. HANSEN asked, regarding Mr. Woodruff's suggestion of an insurance surtax, who would have oversight - the insurance industry or the state. Mr. Woodruff said current insurance taxes are collected by the state from insurance companies, and that the revenue could then be turned over to the DNRC, for instance, if that is where the legislature decides it should be. He said his plan could be structured several different ways, such as a smaller flat fee for all taxpayers or one that would target WUI areas.
- 02:07:29 SEN. LEWIS said that other states are considering this and that the insurance industry strongly opposes such measures. He said that the insurance industry used to provide fire instruction and that this approach makes sense. Mr. Woodruff agreed that insurance companies would vigorously oppose a surtax proposal. He said that there are no incentives for homeowners to make the effort to mitigate fire danger because the home with no mitigation will get a higher level of protection than one that could be considered "survivable". He said his proposal requires little work for insurance companies and would be simple to implement.

BIG SKY COALITION

- 02:22:12 **Sonny LaSalle, Big Sky Coalition (BSC)**, provided copies of his testimony given before the House Natural Resources Committee on April 10, 2008 regarding H.R. 5541 and H.R. 5648 (EXHIBIT #3). Mr. LaSalle agreed that reducing fuel loads is the key to reducing fire danger. He discussed the BNF, saying that the tremendous fuel load is the reason it burns so easily. He said that thinning and prescribed burns make significant difference in the ability to fight and contain fires and that research has determined how much timber a basal area can support. He said insect attacks are almost a certainty in areas in which basal areas are overloaded.
- Mr. LaSalle discussed a National Geographic story on the drying of the West and adjustments to be made to compensate for the drier conditions. He suggested that incentives for building codes to create more responsible building requirements would help, as would biofuel opportunities.
- Mr. LaSalle said that rural firefighters are placed in very dangerous situations when they are asked to defend homes in WUI areas and while Montana has dodged a bullet so far, it is time for action. He said that vegetation can and should be utilized in beneficial ways and pointed out that there are several Montana schools and hospitals already using forest materials as sources for biofuel furnaces.
- 02:42:14 SEN. LAIBLE asked Mr. LaSalle to discuss legislation in which the governor would be granted additional powers regarding community safety. Mr. LaSalle said the National Association of Counties adopted a proposal to allow a governor to play more of a role in community safety considerations. The bill would allow a governor,

in concert with community officials, to make a determination that a community's safety is at risk due to fire danger as a result of fuel build-up. Such a designation would trigger an action by responsible federal agencies within six months with a decision. The decision would not be appealable, but if a lawsuit was filed, a substantial bond would be required before a lawsuit could be go to court. REP. VINCENT asked if the proposal is similar to New Mexico's declaration of emergency provision. Mr. LaSalle said that he didn't know about New Mexico, but just learned that Colorado is planning to introduce legislation to suspend MEPA in order to address the beetle issue because of the devastation of infrastructure that has occurred in that state.

BREAK

Fire History and Ecology of Montana Forests

03:06:16 Dr. Steve Arno presented slides of examples of forest management based on fire ecology and provided a detailed discussion of his knowledge and expertise relating to fire in Montana's forests. Topics included the natural and historical role of fire in forests; that modern public perception of fire may need to be changed because fire is inevitable and society can't rid itself of naturally-occurring fire; a history of fire in Montana's forests, specifically for Ponderosa pine forests; how forest density stress an ecosystem, bringing insects and disease; a discussion of historical fire regimes; and many photographs and bar graphs covering a wide range of issues associated forest health and management. Dr. Arno concluded his presentation with examples from Banff, Canada, which has been doing controlled stand replacement burning for years. Dr. Arno said the work is creating a mosaic of younger and older forests to decrease severity of fires and reduce risk of disease. He said that Montana can use the same use fire management techniques to manage its forests.

03:47:45 SEN. COBB asked Dr. Arno to explain "right to burn" legislation. Dr, Arno said it addressed the issue of liability, if a state has adopted and is following accepted practices of using fire as forestry tool. He said that if a weather event or other factor causes a fire to blow up or run amok, the state is not liable for damages.

PUBLIC COMMENT

03:59:30 **Grant Keir, Five Valleys Land Trust, Missoula**, discussed conservation proposals, such as easements that would reduce the number of structures built in forested areas and open lands initiatives. He encouraged the FSC to think about these as viable options and to consider ways to encourage landowners, agencies, and communities to work together to accomplish them.

04:02:51 **Kathleen Driscoll, Ravalli County Commissioner**, said she was speaking for herself and not as a county commissioner. Ms. Driscoll said she is very concerned about land development in WUI areas and that while private property rights must be respected, so must common sense be used in building. She encouraged the legislature to consider zoning or some measure that would protect property rights but give incentives to property owners living in WUI areas to not further develop their land. Ms. Driscoll said ingress and egress issues are critical in these areas and suggested that perhaps grant funding would provide an incentive to homeowners to improve ingress and egress on their property.

- 04:06:02 **Tom Robeck, Big Sky Coalition**, continued his discussion of the BSC, saying that it is working on several fronts to educate communities on the importance of forest thinning, what constitutes good thinning, and how to move forward in promoting forest health. He said that the BSC was started in reaction to the policies that have created the current problems. He said that the group would the FSC and legislators to focus on how to decrease the threat and level of litigation, which must be accomplished before meaningful changes can be made.
- 04:12:24 **Ron Porter, wood products business owner**, thanked SEN. LAIBLE and the FSC for meeting in Hamilton. He said if it was not for the efforts made at the state level, he would not be in business. He said that while he sits in an ocean of timber, he has to haul logs in from 150-200 miles away. He listed the products manufactured at his plant. Mr. Porter listed the positives that have occurred in the local timber industry and explained how the community of Darby stepped up to fund the wood chips (from his business) for the wood-fired boiler. He said it benefitted his business and that the school was able to save over \$100,000 on it's fuel bill. He said that biofuel projects are realistic and easy to do but that having a source of wood is essential. Mr. Porter said the Darby school project is a good example of how, when people work together, positive things can happen.
- 04:15:40 **Dan Thompson, citizen**, said that he had a question for Mr. Tidwell but that he was no longer present. SEN. LAIBLE said that he would make sure that Mr. Tidwell received the question. Mr. Thompson said it is his observation that in virtually all Region 1 forests, there are significant amounts of roadless and recommended wilderness areas next to WUI areas. He said he would like to know how fire policies will be applied in these areas and if fire use fires are a wise practice in these situations, since the wilderness boundary is in such close proximity to private ground, and precludes treatment that could prevent wildfires.
- 04:18:01 **Matthew Taylor, Executive Director, Wild West Institute**, said that the Institute is a local, non profit group based in Missoula. He said that he as heard a lot at the day's meeting about common ground and working together, but also much blame has been placed on environmental groups and the impact of lawsuits. Mr. Taylor said that as a member of organization that has a history of holding the USFS accountable, he could say there is a tremendous amount of agreement on fuel reduction projects. He said that his organization fully supports certain types of fuel reduction projects and that efforts should be focused on such areas of common ground. Mr. Taylor said that fuel reduction efforts should begin with protection of homes and communities and then move outward because it would be the most economical approach and would make it safer for agencies to fight fires. Mr. Taylor discussed the FireSafe Montana educational program the Institute founded, as well as the the Montana Forest Restoration Principles developed by the Institute. He discussed several restoration projects currently underway and other efforts supported by the Wild West Institute. He asked the Committee to focus on the areas of common ground and suggested that future FSC agendas provide a better balance on panels regarding the different positions regarding forest management. He said it would have been prudent for SEN. LAIBLE to make it known that he serves on the Board of Directors of the Big Sky Coalition.

- 04:25:51 **George Corn, Ravalli County Attorney**, thanked the FSC for meeting in Hamilton. He said that he appreciates the role of fire in a forest and that Dr. Arno's information and books are a great resource. He said the issue of funding the many needs of the state is a difficult one and that the process of determining the responsibilities of federal, state, and local governments, as well as individuals, is daunting. He said that he supports the idea of a "progressive" insurance surtax and said that it would be the best tool for immediate relief. Mr. Corn said that everyone bears the cost of fires, whether it is a direct financial cost to a business or suffer from smoke in the air.
- Mr. Corn said that Ravalli County is involved in litigation with the federal government regarding the Middle East Fork project. He said that the County is appreciative of the fact that it can participate but said it is important to keep in mind that the cost of participating in lawsuits is significant. He said it would be better to work with the congressional delegation to achieve balance in national forest policy. Mr. Corn said that it is important that the state works with federal government on national forest issues, but said that after the fires of 2000, communities were not allowed to participate in salvage matters. He said that communities need to have a say in these matters.
- 04:32:04 **Charles Scripts, Chief Painted Rock Fire District**, said this is a life safety issue and that failure to act, on the Committee's part, will result in a someone's death. He asked that the Committee take action to stop a unnecessary death occurs.
- 04:33:06 **Jonathon Luibrand, forester**, said that he has worked for the USFS and is a professional forester. He advised the FSC that until forests are in better condition with less potential for catastrophic impact, initial attack will have to be very vigorous. Only after the condition of the forests have been improved can things be done differently.
- 04:35:30 **Kenneth Miller, President, Friends of the Bitterroot**, thanked the FSC for coming to Hamilton. He said he was encouraged to hear that the importance of fuel treatment in WUI is being recognized. He said that research and science supports that. He said the idea of thinning the entire national forest to prevent catastrophic fire is not realistic and that climate change is largely responsible for the changing conditions, not the buildup of fuels. Mr. Miller said the idea that litigation is the cause of the fire conditions has no basis in reality and said that in the 20-year history of his organization, it has litigated only three cases. He said that the organization strongly opposes suspending MEPA rules, as has been suggested. Mr. Miller said it would be better to concentrate on areas of consensus and start there. He thanked the Committee for its work and said the he looks forward to building bridges and finding positive solutions.
- 04:40:15 **Mike Jeffers, citizen**, said that he has lived in the area since 1969 and has seen the valley move from an economic base of a viable timber industry economic to that of a service industry. He disagreed with previous comments that lawsuits are not the cause of forests being overgrown, saying that the prevention of work in national forests, due to lawsuits, is the reason for the overgrowth. He discussed the "flinch factor" of the USFS every time it puts out a sale. He agreed that cleaning up the

WUI is a great idea and badly needed, but said the idea that forest thinning and fuel reduction in WUI areas would be sufficient to reduce the threat of wildfires is not at all realistic. He said that when 1.6 million acres of national forest is overgrown and the only areas treated are the WUI, conditions will not change. He said that frivolous lawsuits have virtually destroyed the timber in the state and that if ethical logging practices were allowed, the situation would improve quickly.

- 04:43:58 **Stewart Brandborg** asked that good science and management be used to make the decisions that need to be made. He said that, in his opinion, the situation began to form in the 1960s when the USFS conspired with the corporate timber industry to put smaller mills out of business. Mr. Brandborg provided a historical perspective of the timber industry in the Bitterroot Valley and events that contributed to the current situation.
- 04:52:48 **David Cowardin, Corvallis Fire District Trustee**, said that his primary concern is initial attack in WUI fires and how resources are used. He discussed his position as a local fire responder in regards to federal initial attack efforts and made suggestions to improve initial attack. Mr. Cowardin submitted a copy of his comments (EXHIBIT #4). *NOTE: Mr. Cowardin submitted additional comment and suggestions after the meeting - attached as EXHIBIT #5).*
- 04:56:04 **Deb Aspen, citizen**, discussed her concerns as a landowner in a WUI area. She said that legislation may be necessary to mandate homeowner mitigation measures and that specific ground rules would have to be established.
- 05:02:00 SEN. WILLIAMS thanked all who attended the meeting and those who provided comment. She said that she wanted everyone to know that safety is of great concern to the FSC and that a great deal of discussion has been held about it.
- 05:02:51 SEN. LAIBLE said that as point of personal disclosure, he does serve on the Board of Directors of the Big Sky Coalition.
- 05:03:31 **Leanne Heisel, Staff, FSC**, provided copies of the BLM's written response to the Committee questions (EXHIBIT #6) and from James Olson of Hamilton (EXHIBIT #7).
- 05:05:08 REP. KEANE reported that the workers' compensation issue is getting close to being handled and that he met recently with State Fund to work on the issue.
- 05:05:57 SEN. WILLIAMS said that she and REP. RIPLEY met recently with the Governor's Budget Director and would report at the next meeting.
- 05:06:18 REP. BOLSTAD reported on the status of the USFS federal budget and possible bipartisan efforts to prevent USFS budget cuts.
- 05:06:49 SEN. LAIBLE said that he is working with Barbara Smith, Fiscal Analyst, Legislative Fiscal Division, on a mill levy for fire costs. He said Ms. Smith would report at the next meeting.

- 05:07:30 SEN. COBB asked for a summary of the panelists's responses to the FSC's questions as discussed in the morning meeting. SEN. LAIBLE asked for copies of the AMR that will be discussed at SEN. COBB's morning meeting and also a copy of the AMR used at the Seeley Lake fire. SEN. COBB said that Mr. Harrington would provide information about a structure protection definition. He also asked for information on the ethanol tax credit and that copies of Dr. Vogt's presentation be obtained.
- 05:10:07 SEN. LAIBLE said that the FSC would reconvene at 9:00 a.m. for a tour of the Hayes Creek fuel reduction projects, the Tin Cup area, and the Sula Basin. The meeting was recessed at 5:53 p.m.

April 28, 2008

The Fire Suppression Committee reconvened at 9:34 a.m. for a brief business meeting. The Secretary noted the roll, SEN. LAIBLE, SEN. HANSEN, SEN LEWIS, SEN. WILLIAMS, REP. BOLSTAD, REP. KEANE, REP. KERNS, REP. VINCENT, and REP. WILSON were present.

SEN. LAIBLE asked for feed back regarding the previous day's meeting and suggestions on how to improve future meetings. REP. VINCENT thought that the meeting went well but suggested that future agendas be expanded to include a more diverse stakeholders.

REP. KERNS said that the information regarding methanol production was extremely interesting and enlightening. He said it was the first time he had heard a practical solution and said he planned to get more information. SEN. LAIBLE said market conditions are not good for methanol productions and that a distribution system would have to be built. REP. KERNS agreed, but said there is a great deal of potential.

The FSC discussed the upcoming meetings scheduled in Seeley Lake, Thompson Falls, and Libby, scheduled for June 19 and 20. It was agreed that agenda items would include a presentation and discussion of the effect of fires and smoke on humans, examples of groups working together in collaborative efforts, a presentation by Plum Creek, representatives of the tourism industry to discuss the impacts of fire on the local economy, and another panel discussion with DNRC and USFS representatives.

REP. KEANE said that representation from Montana's congressional delegates is still missing. He said that having their participation is the only way that Montana can influence federal policy. Mr. Everts said that letters of invitation were sent to all three of Montana's delegates but that no response was received.

REP. KEANE and SEN. LEWIS reported on the mechanical treatment equipment demonstration they attended. He said it was put on for the USFS and other agencies interested in the issue of forest management. He said he found it interesting that the younger USFS employees were not at all familiar with the types of equipment displayed or what their function was. He said the manufacturers of the equipment are anxious to build equipment to the specifications needed to work in forests and cause little impact. He said that he would like to discuss having a bill draft that would create a pilot program, sponsored either by the committee or an individual legislator, that would allow for mechanical treatment of forest lands. He said the treatment areas would be on state lands and be concentrated in WUI areas.

SEN. LAIBLE said such a project would have the added benefit of keeping mills open.

SEN. LEWIS said the capabilities of the equipment was a huge revelation to him and that work was done quickly, safely, and with little impact to the forest.

SEN. WILLIAMS said she thought it was worth looking into, but said it would have to be supported by the environmental groups. She said it would have to be clear that the treatment areas would be in WUI only and not in forests.

REP. VINCENT said that the "gorilla in the room" is the USFS because there are communities that are surrounded by nothing but Forest Service lands. These communities would get no relief from the program.

Potential areas were discussed by the FSC and stakeholders present at the meeting, and it was agreed that there are many WUI areas that would be suitable for mechanical treatment.

ADJOURNMENT

The FSC adjourned to begin tours of the Hayes Creek fuel reduction projects, the Tin Cup area, and the Sula Basin. The next meeting of the Fire Suppression Committee is scheduled for June 19 and 20, 2008, in Seeley Lake, Thompson Falls, and Libby.

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